

**COMMONWEALTH OF VIRGINIA  
VIRGINIA EMPLOYMENT COMMISSION  
Workforce Investment Act**

<b>Policy Number</b>	<b>00-7</b>
<b>Effective Date:</b>	<b>June 7, 2000</b>
<b>Revision #</b>	
<b>Revision Date</b>	
<b>Title:</b>	<b>Certification Process for WIA Training Providers</b>

## **PURPOSE**

To describe eligibility criteria that will be applied by Local Workforce Investment Boards (LWIBs) to initial applications by training providers for certification; to establish a subsequent process for annual training provider review and certification; to provide guidance on local procedures for workforce investment boards to use in operating their certification system; and to describe the appeals process available to those providers that are refused certification.

## **REFERENCES**

P.L. 105-220, Workforce Investment Act, Sections 122, 123, and 134.

Federal Register, April 15, 1999 (Volume 64, No. 72), U.S. Department of Labor  
Workforce Investment Act; Interim Final Rule 20 CFR, Part 663, Subpart E.

## **POLICY STATEMENT**

The Workforce Investment Act of 1998 (WIA) mandates “an individual training account system” that allows eligible WIA customers to choose training programs from a statewide list of certified training providers. The local boards and the State will work together to develop and disseminate this list so that customers have the information and the confidence to make informed decisions in choosing a training course anywhere in Virginia.

To be certified to receive WIA training vouchers, a training provider must make application to the Local Workforce Investment Board (LWIB) for each program of training that leads to a certificate, degree, license, or skill attainment. This is a two-stage process.

For the first year of inclusion on the State list, the applicant must demonstrate that the training program meets the eligibility criteria listed in Attachment A. The applicant must also submit required information for a consumer reports system that will contain all certified training providers that the Virginia Employment Commission will maintain on the State website.

The second stage of the application process requires the collection of first year performance, customer satisfaction and outcomes data. To be certified beyond the first year, the applicant must submit this performance information to the LWIB to demonstrate that the applicant can provide effective, relevant, quality training in Virginia. The LWIB will take responsibility for certifying the applicant on an annual basis and passing that information along to the Virginia Employment Commission, which is the designated state agency responsible for developing and maintaining the state list of eligible providers.

There will be an appeals process available to all applicants that do not succeed in either their initial application or the subsequent application for certification. The appropriate LWIB will review the applicant's request for reconsideration first at the local level, and if the issue is not resolved satisfactorily, the Virginia Employment Commission will review the appeal.

The attached guidelines include the following sections:

Attachment A

- I. Stage One: Initial Eligibility Guidelines
- II. Stage Two: Subsequent Certification Process
- III. Local and State Process

Attachment B

- I. Enforcement
- II. Appeal Process

The Virginia Employment Commission is available to provide technical assistance to Chief Local Elected Officials, Local Workforce Boards and One-Stop Operators to ensure effective and efficient local implementation of the WIA.

**RECISIONS**

**APPROVED**

Michael A. Daniels

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Chair, Virginia Workforce Council

**APPROVED**

Thomas J. Towberman

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Commissioner, Virginia Employment Commission

**DATE: June 7, 2000**

**ATTACHMENTS**

**COMMONWEALTH OF VIRGINIA  
VIRGINIA EMPLOYMENT COMMISSION  
POLICY NUMBER 00-7  
ATTACHMENT A:**

**I. Stage One: Initial Training Provider Eligibility Criteria**

**A. Local Workforce Investment Boards (LWIBs) must require applicants to document at least one of the following Federal and State criteria in their initial applications for certification as a provider of a program of training services.**

*A program of training services is one or more courses or classes that, upon successful completion, leads to a certificate, an associate degree, or baccalaureate degree; a competency or skill recognized by employers; or a training regimen that provides individuals with additional skills or competencies [20CFR, 663.508].*

- 1) The provider is a postsecondary educational institution approved to operate in Virginia, whose programs are approved by an accrediting agency that is recognized by the Federal Department of Education as being eligible under Title IV of the Higher Education Act.
- 2) The provider is an entity that carries out programs registered under the National Apprenticeship Act.
- 3) The program of training services for which certification is being sought has been recognized by the industry as meeting the standards necessary for approval or accreditation, such as Microsoft Certified Engineer, CISCO Certification, ASE for auto mechanics, etc. Also, the provider of the program is approved to operate in Virginia under applicable provisions of the Code of Virginia.
- 4) The program is a credit or non-credit program of customized training provided by Virginia community colleges, public school systems or other local public vocational technical schools, in partnership with area employers for their emerging and incumbent worker needs.

*Training programs with active employer advisory boards would qualify under this criterion.*

- 5) If a provider cannot meet any of the above criteria, it must demonstrate to the LWIB that the program for which it is seeking certification is germane to local workforce development needs and provides quality training.

*On the job training or customized training as defined in WIA Section 101, are not to be*

*processed for inclusion on the statewide-certified training provider list. Local one-stop operators will be responsible for determining whether providers of on-the-job training and/or customized training meet State performance criteria in order to qualify for WIA payments.*

*It must be noted that pre-vocational skill training such as the development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills and professional conduct, and stand alone literacy/basic skills education are to be treated as intensive services under WIA and not necessarily included in the certification process for training providers [Section 134, (d) (3) (C) (vi)].*

*Also, JTPA training service providers that continue to serve only carry-over JTPA participants are not required to seek certification under WIA. They shall continue to provide seamless services to JTPA participants that have been transitioned into WIA. However, there is no grandfathering into WIA of former JTPA training providers or their training programs. Those JTPA training providers must make an initial application for certification if they choose to serve WIA customers.*

The application must specifically address the following:

- a. Describe how the program of training services meets local employer demand or meets a need in workforce development for the local labor market.
- b. If applicable, provide all information pertaining to approval by the State to operate, or to endorse, certify or license completers of the training.
- c. Provide letters of support from local employers.
- d. Submit a description of the training curriculum and the skills that the trainee will learn.
- e. Describe the jobs or level of job readiness that this training will lead to.
- f. If applicable, describe the targeted population served by the training program and how it will meet the special needs of that population.
- g. Describe the competency of the training staff.
- h. If applicable, provide past program completion rates and JTPA performance data.
- i. If this is a new training program, describe the enrollment goals and anticipated completion outcomes.
- j. Provide any other information required by the LWIB.

**B. Applicants must agree to collect required performance outcomes information (listed below in II. A.) over the course of the first year for each program of training services included on the statewide list.**

**C. The applicant shall also provide on the initial application, at a minimum, the following information for each program of training services, to be posted to a statewide consumer report list.**

*The statewide consumer reports system is currently under development, and this section may be revised as needed.*

Name of provider  
Mailing address  
Physical location and service area, if applicable  
Phone and fax number  
E-mail address  
Internet address  
WIA contact, if applicable  
The number of years provider has been in operation

Course title and code  
Location of class and/or how to access the course  
Course description  
Program length  
Total credit hours

Degree, certificate or license earned  
Accrediting organization  
State approving entity  
Occupations and typical pay scales  
Exams required

Year that program was established  
Business partner(s)

Program costs, including tuition, books, uniforms, tools or other required supplies  
Exam costs  
Financial aid available  
Financial aid office phone number

Admissions requirements or prerequisites  
Target population if applicable  
Admissions office phone number

Certifying LWIB  
Any provisions applied by the LWIB

**D. The initial application of the provider seeking certification must be filed with the LWIB that represents the geographic area with the training provider's largest customer base.**

*In order to be included on the statewide consumer reports list, the applicant need only apply to one LWIB, even though it may intend to serve more than one Local Workforce Investment Area (LWIA) in Virginia.*

**E. The applicant shall provide any other information required by the Local Workforce Investment Board.**

**II. Stage Two: Subsequent Eligibility Criteria**

**A. To be eligible for continued inclusion on the statewide list, the training provider must be certified by the LWIB based on the following performance information and customer service indicators collected annually:**

- 1) LWIBs must require training providers to collect and submit the following performance information for each program for which the provider is seeking certification:

*Training providers that deliver training services programs on a statewide basis shall submit statewide data. The certifying LWIB may require that the training provider also submit local performance data for their LWIA*

- a. The completion rates for all individuals participating in the training services program [Section 122 (d)];
- b. The rates of licensure or certification, attainment of academic degrees or equivalents, or attainment of other measures of skills, of all individuals enrolled in the training services program; and
- c. The percentage of job seeking individuals participating in the program who obtain unsubsidized employment as a result of the training or that is training related; and their wages at placement [Section 122 (d)].

- 2) Local Workforce Investment Boards must also require performance data for all WIA Title I funded participants participating in the program of training services to be tracked and submitted for the following performance outcomes:

*All of the following performance data shall be collected by the appropriate one-stop operators and submitted to the LWIB for consideration in the certification process and to the Virginia Employment Commission for inclusion in the statewide consumer reports system.*

- a. The percentage of adult WIA participants who have completed the applicable training program and who are placed in unsubsidized employment [Section 122 (d)] generally related to the training and for which there are jobs in the community.
- b. The percentage of dislocated workers who have completed the applicable program and who are placed in unsubsidized employment related to training.
- c. The retention rates in unsubsidized employment of participants who have completed the applicable program, 6 months after the first day of the employment [Section 122 (d)];

- d. The wages received by participants who have completed the applicable program, 6 months after the first day of the employment involved [Section 122 (d)];
- e. Where applicable, the rates of licensure or certification, attainment of academic degrees or equivalents, or attainment of other measures of skills, of the WIA graduates of the training services program [Section 122 (d)]; and
- f. The measure of customer satisfaction of all WIA participants who are enrolled in or have completed the applicable training services program.

**B. In applying the above measures to the performance of local training providers, LWIBs must take into consideration local factors that may have affected training provider performance. These factors include economic, geographic and demographic conditions in the local area. Other factors that must be considered are characteristics of special populations that present demonstrated difficulties to their successful program completion. [Section 122 (c) (4)].**

### **III. Local and State Process**

- A. The LWIB shall give public notice to training providers to inform them of the process and the local timeframe for making application for WIA certification and for inclusion on the statewide training provider list and for annual re-certification.**
- B. If LWIBs choose to accept initial applications at any time throughout the year, they shall negotiate a schedule with each of the applicants during initial 'Stage One' application so that all training providers get on the same cycle for collecting and submitting their performance data to the LWIB. LWIBs may grant up to 6 additional months for the initial application period in order to accomplish this.**
- C. The LWIB shall require annual re-certification for each program of training services included on the State List.**
- D. The re-certification process will follow the process described above in Stage Two.**
- E. The LWIB shall require all annual performance information to be submitted by the training providers and the one-stop operators by June 1st of each program year.**
- F. The LWIB shall require all consumer report information, including program cost information, to be updated and submitted by the training provider by June 1st of each program year.**

- G. The LWIB shall complete re-certification and submit all updated information to the VEC by July 1st.**
- H. In consultation with the LWIBs, the VEC may determine within 30 days of submission of the training provider's performance information that it does not meet acceptable levels of performance or has provided inaccurate information and remove that provider from the State list.**
- I. The statewide list of certified training providers shall be annually updated by the VEC and available to the public in a timely manner.**



**COMMONWEALTH OF VIRGINIA  
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POLICY NUMBER 00-7  
ATTACHMENT B**

**I. Enforcement**

The Governor has designated the Virginia Employment Commission (VEC) as the State agency that will develop and maintain the statewide certified training provider list. As such, the VEC will have final responsibility to ensure that the list is accurate and is an honest reflection of the training opportunities available in Virginia.

- A. **ACCURACY OF INFORMATION-** If the VEC, after consultation with the LWIB involved, determines that an eligible provider or individual supplying information on behalf of the provider intentionally supplies inaccurate information, VEC shall terminate the eligibility of the provider to receive WIA funds for any program for a period of time that is not less than 2 years [Section 122 (f) (1)].
- B. **NONCOMPLIANCE-** If the VEC, or the LWIB working with the VEC, determines that an eligible provider substantially violates any requirement under this Act, the VEC, or the LWIB working with the VEC, may terminate the eligibility of such provider to receive WIA funds for the program involved or take such other action as the VEC or LWIB determines to be appropriate [Section 122 (f) (2)].
- C. **REPAYMENT-** A provider whose eligibility is terminated under paragraph (A) or (B) for a program shall be liable for repayment of all WIA funds received for the program during any period of noncompliance [Section 122 (f) (3)].
- D. **CONSTRUCTION-** These penalties shall be construed to provide remedies and penalties that supplement, but do not supplant, other civil and criminal remedies and penalties [Section 122 (f) (4)].

**II. Appeal Process for Denial of Placement on or Subsequent Removal from an Eligible Training Provider List**

Section 122 (g) of the Workforce Investment Act (WIA) requires that the Commonwealth of Virginia have in place a procedure for training services providers to appeal denial of eligibility by the LWIB, a termination of eligibility or a denial of eligibility for an on-the-job training provider by a one-stop operator. Such a process must, at a minimum, include an opportunity for a hearing and the prescription of appropriate time limits to ensure a prompt resolution of the matter.

## **Process**

The training provider shall have thirty (30) calendar days from the date the denial notification was mailed to file a request for reconsideration to the LWIB. The appeal request must be submitted in writing and signed. At a minimum, the appeal must identify the training program and location(s) denied and must clearly state the reasoning for the appeal.

Within thirty (30) calendar days of receipt of the request for reconsideration, the LWIB shall review the request and issue a written decision that either upholds or reverses the original decision. Instances for a reversal may include, but shall not be limited to, an administrative error or instances where additional information submitted by the training provider changes the basis on which the original decision was issued.

### **A. Reversal by LWIB**

1. If the LWIB reverses the prior decision, the LWIB shall forward the request with a copy of the appeal file to the Virginia Employment Commission (VEC) for inclusion on the statewide list of training providers. The LWIB shall also notify the training provider in writing that they have reversed their original decision and that the list inclusion request has been forwarded to the VEC.
2. If the LWIB fails to act during the 30-day time period described above, the initial decision shall automatically be reversed.

### **B. LWIB Appeal Denial**

#### **1. Procedure Before the Administrative Law Division**

If the LWIB affirms its original decision, the provider shall have the option of filing an appeal of the LWIB decision with the VEC Administrative Law Division. Such a filing must be made within ten days of the date of mailing of the LWIBs determination. The VEC Chief Administrative Law Judge or his designee shall conduct a hearing at which the training provider and LWIB will be allowed to present their cases, based on the issues presented in the original appeal to the LWIB. The VEC shall provide notification that an appeal has been filed and shall also issue a hearing notice at least ten calendar days before the hearing providing information on the hearing's date and time. All hearings shall be held at the VEC's Administrative Office in Richmond, Virginia. A hearing may be held telephonically if agreed to by all interested parties. The Chief Administrative Law Judge or his designee will issue an independent decision that sets out the relevant facts of the case, and decides the issue or issues appealed. A written decision will be issued to the training

provider and other interested parties. If the Chief Administrative Law Judge or his designee reverses the decision of the LWIB, the LWIB shall comply with the decision in a prompt and efficient manner. The procedures outlined in the preceding Policy 00-7 for certifying training programs, inclusion of the training program on the statewide list and written notification to the training provider shall be followed.

The Administrative Law Division's decision will be final.

## 2. Burden Of Proof

- a. In cases involving the denial of an initial certification or re-certification, the burden shall be upon the training provider to prove, by a preponderance of the evidence that the certification should have been granted.
- b. In cases involving de-certification of a training provider for intentionally supplying inaccurate information or for substantially violating any requirement under the Workforce Investment Act, the burden shall be upon the LWIB to prove, by a preponderance of the evidence, that the decision to decertify was appropriate.